

Assembly Bill No. 2160

CHAPTER 479

An act to add Section 1241.2 to the Insurance Code, relating to insurance.

[Approved by Governor September 23, 2012. Filed with
Secretary of State September 23, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, Blumenfield. Insurance: retention risk.

Existing law prohibits domestic insurers from acquiring foreign investments from or located in foreign jurisdictions designated as state sponsors of terrorism by the United States Secretary of State.

Existing law, the Iran Contracting Act of 2010, provides that a person whose name appears on a list developed or contracted for development by the Department of General Services as a person determined by the department to be engaged in investment activities in Iran is ineligible to bid on, submit a proposal for, enter into, or renew a contract with a public entity.

This bill would require that above-referenced investments by a domestic insurer in companies that are included on the list maintained by the Department of General Services be treated as nonadmitted assets on the financial statements of the domestic insurer. The bill would deem use of the list developed for purposes of the Iran Contracting Act of 2010 as automatic compliance with these requirements. The bill would require the insurer to provide the Department of Insurance, on an annual basis, with a list of the investments the insurer has in companies included on the Department of General Services list.

The people of the State of California do enact as follows:

SECTION 1. Section 1241.2 is added to the Insurance Code, to read:

1241.2. (a) The Legislature finds and declares all of the following:

(1) The federal Securities and Exchange Commission has determined that business activities in foreign states sponsoring terrorism, such as Iran, that are subject to sanctions by the United States may materially harm the share value of foreign companies. Shares in these foreign companies may be held in the portfolio of insurance companies issuing policies to California consumers.

(2) Publicly traded companies in the United States are substantially restricted in doing business in or with foreign states, such as Iran, that the United States Department of State has identified as sponsoring terrorism.

(3) Identifying companies with business activities in foreign states, such as Iran, that sponsor terrorism and ensuring that those investments are financially sound is an important public policy priority.

(4) It is the government of Iran, and not the people of Iran, that is responsible for Iran's support of terrorism and that commits egregious violations of human rights under which its own citizens are required to live.

(b) As used in this section, the following definitions shall apply:

(1) "Business operations" means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Iran, including the ownership or possession of real or personal property located in Iran.

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profitmaking purposes or to otherwise secure economic advantage. "Company" also means a company owned or controlled, either directly or indirectly, by the government of Iran, that is established or organized under the laws of or has its principal place of business in the Islamic Republic of Iran.

(3) "Government of Iran" means the government of Iran or its instrumentalities or political subdivisions. "Government of Iran" also means an individual, company, or public agency located in Iran that provides material or financial support to the Islamic Republic of Iran.

(4) "Invest" or "investment" means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Iran, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(5) "Iran" means the Islamic Republic of Iran or a territory under the administration or control of Iran.

(c) (1) Investments by a domestic insurer included on the list of companies by the Department of General Services pursuant to subdivision (b) of Section 2203 of the Public Contract Code shall be treated as nonadmitted assets. Utilization of this list by a domestic insurer to review its investments shall be deemed automatic compliance by the department.

(2) On or before June 30, 2013, and annually thereafter, the insurer shall determine what investments it has in companies included on the Department of General Services list.

(d) The insurer shall provide the department, on an annual basis, a list of investments the insurer has in companies included on the Department of General Services list described in subdivision (c), including, but not limited to, the issuer, by name, of the stock, bonds, securities, and other evidence of indebtedness.

(e) If the insurer sells or transfers all of its investments in companies included on the Department of General Services list described in subdivision (c), this section shall not apply to that insurer.

(f) This section shall cease to be operative if both of the following apply:

(1) Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism.

(2) Pursuant to the appropriate federal statute, the President of the United States determines and certifies to the appropriate committee of the Congress of the United States that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.